

**THE VILLAGE OF DEXTER  
CITY CHARTER COMMISSION**

**Wednesday, January 29, 2014**

**\*\*\*\*\* 6:30 pm – Regular Meeting \*\*\*\*\***

**COPELAND BOARD ROOM – 7714 ANN ARBOR STREET**

**A. CALL TO ORDER/ROLL CALL/PLEDGE OF ALLEGIANCE**

Commissioner Raatz is excused

**B. APPROVAL OF AGENDA**

**C. APPROVAL OF THE MINUTES**

1. Regular Meeting – January 22, 2014

**D. PRE-ARRANGED PARTICIPATION**

*The Commission would like to encourage public comment while remaining within established time limits. Pre-arranged participation will be limited to those who notify the Village office before 5:00 p.m. the Monday preceding the meeting, stating name, intent and time requirements. Comments related to public hearings on the agenda will not be permitted at this time. This section is limited to 5-minutes per participant or 10-minutes for group representatives. This section will also include presentations by invited guests/consultants and written communications received by the Commission.*

Marie Sherry, Treasurer/Finance Director – Invited Guest to Discuss Article IV

**E. PUBLIC HEARINGS**

*Those addressing the Commission will state their name, and address. This section is limited to 5-minutes per participant or 10-minutes for group representatives.*

None

**F. CHARTER CONSTRUCTION – SECOND READINGS**

*Discussion and consideration of the current draft of the chapter.*

None – Second Reading of Administrative Services will be on February 5

**G. CHARTER CONSTRUCTION – FIRST READINGS**

*Discussion of each chapter of the draft charter. When general agreement is reached it will be presented under “second readings”.*

1. Discussion of: Article IV - Financial Management

**H. OTHER ITEMS AS REQUESTED BY COMMISSIONERS**

*“This meeting is open to all members of the public under Michigan Open Meetings Act.”*

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**I. AGENDA PREPARATION FOR THE NEXT MEETING**

Tom Ryan's attendance has been rescheduled to the February 5<sup>th</sup> meeting.

**J. NON-ARRANGED PARTICIPATION**

*Those addressing the Commission will state their name, and address. This section is limited to 5-minutes per participant or 10-minutes for group representatives.*

**K. ADJOURNMENT**

*Adjournment will be at or before 8:30 p.m. unless a continuation is ordered by a majority vote of the Commission.*

**List of Draft Chapters Completed**

<b>Chapter</b>	<b>Date Adopted</b>
Preamble	December 11, 2013
Article 1 – Power of the City	January 8, 2014
Article 2 – City Council	January 15, 2014

**THE VILLAGE OF DEXTER  
CITY CHARTER COMMISSION  
MINUTES OF THE WEDNESDAY, JANUARY 22, 2014 MEETING**

**A. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

The meeting was called to order at 6:30 PM by Chairman Hansen at the Copeland Board Room located at 7714 Ann Arbor Street in Dexter, Michigan.

**B. ROLL CALL:** Phil Arbour, Jack Donaldson, John Hansen, Matt Kowalski (arrived at 7:43), Phil Mekas (left at 7:48), Mary-Ellen Miller, Thom Phillips, Michael Raatz, and James Smith.

Also present: Donna Dettling, Village Manager; Courtney Nicholls, Assistant Village Manager; and Carol Jones, Village Clerk.

**C. APPROVAL OF THE AGENDA**

Motion James Smith; support Jack Donaldson to approve the agenda for January 22, 2014.

Unanimous voice vote approval with Kowalski absent.

**D. APPROVAL OF THE MINUTES**

1. Regular Meeting – January 15, 2014

Motion James Smith; support Phil Arbour to approve the minutes of the Regular Meeting of January 15, 2014 as amended with the correction on page 2 Section 2.13 should be (d) not (bd) and on page 3 Section 3.01 adding a *s* to officer in the first line.

Unanimous voice vote approval with Kowalski absent.

**E. PREARRANGED PARTICIPATION**

Donna Dettling, Village Manager – Invited Guest to Discuss Article III

**F. PUBLIC HEARINGS**

None

**G. CHARTER CONSTRUCTION – SECOND READINGS**

None

## **H. CHARTER CONSTRUCTION – FIRST READING**

### **1. Discussion of: Article III – Administrative Services**

Motion James Smith; support Jack Donaldson to approve the first reading of Section 3.04 – City Manager – Function and Duties

The City Manager shall be responsible to the council for the proper management and administration of the affairs of the city. The City Manager shall:

- (a) Appoint and remove employees of the city, make recommendations to the council relative to the appointment and removal of administrative officers of the city as referenced in Section 3.01, and set employees compensation with the budget adopted by the council.
- (b) Supervise and coordinate the work of all the administrative offices and Departments of the city except the work of the City Clerk, City Treasurer and City Assessor as dictated by state constitution or statute.
- (c) Be the main point of communication and dissemination of information from the City Attorney.
- (d) See that all laws and ordinances enforced.
- (e) Prepare and administer the annual budget under policies formulated by the council, have budget control responsibility, and keep the council advised as to the financial condition and needs of the city.
- (f) Furnish the council with information concerning city affairs and prepare and submit such reports as may be required or which council may request.
- (g) Make recommendations to the council relative to all agenda items, except as directly related to his or her employment.
- (h) Subject to any employment ordinance of the city, he or she shall employ or be responsible for the employment of all city employees and supervise and coordinate the personnel policies and practices of the city.
- (i) Establish and maintain or appoint an authorized representative to establish and maintain a central purchasing service and the City Manager shall act as the purchasing agent for the city.
- (j) Attend all meetings of council with the right to be heard in all council proceedings but without the right to vote.
- (k) Possess such other powers as may be granted to or required of him or her by council, so far as may be consistent with the provisions of law.

(l) Establish any rules necessary to carry out any of the foregoing duties.

(m) Perform such other duties in connection with the office as may be required by law, ordinance or by city council

Unanimous voice vote approval with Kowalski absent.

Motion Mike Raatz; support Phil Mekas to approve the first reading of Section 3.05 – City Manager – Removal

The City Manager serves at the pleasure of the city council and may be removed by an affirmative vote of not less than five (5) of its members.

Unanimous voice vote approval with Kowalski absent.

Motion Phil Arbour; support Jack Donaldson to approve the first reading of Section 3.06 – City Clerk

(a) The City Clerk shall be the clerical officer of the council and shall keep its journal in English. The City Clerk shall keep a record of all actions of the council at its regular and special meetings and shall certify all ordinances and resolutions adopted by the council. The City Clerk shall be appointed by the City Manager with advice and consent of council. The appointment shall be made on the basis of education, ability, training and experience.

(b) The City Clerk shall have the power to administer all oaths required by law and by the ordinances of the city and shall be custodian of the city seal, and shall affix the same to documents required to be sealed. The City Clerk shall be the custodian of all papers, documents, and records pertaining to the city, which are not entrusted to some other city officer or department by city charter, ordinance or law. All records of the city shall be made available to the general public in compliance with the Michigan Freedom of Information Act. He or she shall give the proper officials ample notice of the expiration or termination of any official bonds, franchises, contracts or agreements to which the city is a part and shall notify the council of failure of any officer or employee required to take an oath of office or furnish any bond required of him or her. The City Clerk shall be the chief election officer for the city.

(c) The City Clerk shall perform such other duties in connection with the office as may be required by law, ordinance or resolutions of the council, or by the City Manager.

Unanimous voice vote approval with Kowalski absent.

Motion Phil Arbour; support Phil Mekas to approve the first reading of Section 3.07 – City Treasurer

(a) The City Treasurer shall have the custody of all moneys of the city and all evidences of value or indebtedness belonging to or held in trust by the city. The City Treasurer shall keep and deposit all moneys or funds in such manner and only in such places as allowed by the investment policy adopted by council, and shall report the same to the City Manager. The City Treasurer shall be appointed by the City Manager with advice and consent of council. This appointment shall be made on the basis of education, ability, training and experience.

(b) The City Treasurer shall have such powers, duties and prerogatives in regard to the collection and custody of state, county, school district, city taxes and other taxing entities' money as are provided by law.

(c) The City Treasurer shall disburse all city funds in accordance with provisions of law and this charter.

(d) The City Treasurer shall establish and maintain a general accounting plan which will conform to such uniform accounting standards as may be required by law.

(e) The City Treasurer shall perform such other duties in connection with the office as may be required by law, the ordinances or resolutions of the council, or by the City Manager.

Unanimous voice vote approval with Kowalski absent.

Motion Phil Arbour; support Phil Mekas to approve the first reading of Section 3.08 – City Assessor

(a) The City Assessor shall possess all the power vested in and shall be charge with the duties imposed upon the assessing officer of a city by law. The City Assessor shall be appointed or contracted for by the City Manager with advice and consent of council. The selection shall be made on the basis of proper certification by the state assessor's board, education, ability, training and experience.

(b) The City Assessor shall make and prepare all regular and special assessment rolls in the manner prescribed by law or ordinances of the city.

(c) The City Assessor shall perform such duties as may be prescribed by law or the ordinances of the city, or by the City Manager.

(d) The City Assessor shall be secretary of the Board of Review.

Unanimous voice vote approval with Kowalski absent.

Motion Phil Arbour; support Phil Mekas to approve the first reading of Section 3.09 – City Attorney

(a) The City Attorney shall act as legal advisor and be responsible to the council. The council shall appoint him or her on the basis of education, ability, training and experience.

(b) The City Attorney shall be the legal advisor and counsel for the city.

(c) The City Attorney shall prepare or review ordinances, regulations, contracts, bonds and other such instruments as may be required by this charter, the council, or the City Manager and shall promptly give his or her opinion as to the legality thereof.

(d) The City Attorney shall prosecute ordinance violations and shall represent the city in cases before the courts and other tribunals. In such instances as the council shall direct, he or she shall defend officers and employees of the city in actions arising out of the performance of their official duties.

(e) Upon the City Attorney's recommendation, or upon its own initiative, the council may retain special legal counsel to handle any matters in which the city has an interest, or to assist the City Attorney.

(f) The City Attorney shall perform such other duties in connection with the office as may be prescribed by this charter, the council or by contractual agreement.

(g) The City Attorney shall comply with the Michigan Rules of Professional Conduct of the Michigan State Bar Association.

(h) The City Attorney serves at the pleasure of the city council and may be removed by an affirmative vote of not less than four (4) of its members.

Unanimous voice vote approval with Kowalski absent.

Motion Mike Raatz; support Mary-Ellen Miller to approve the first reading of Section 3.10 – Police Protection and Fire Protection

(a) The council shall provide for, establish and maintain police protection to enforce all laws, ordinances, and codes of the city through the creation of a police department, public safety department or by providing for police services by contract or intergovernmental agreement.

(b) The council shall provide for, establish and maintain fire protection and rescue services within the administrative division of the city. The council shall have power to enact such ordinances and to establish and enforce such regulations and enter into intergovernmental or contractual agreements as it shall deem necessary.

(c) If the city operates its own police and/or fire department, the police chief and/or fire chief shall be appointed by the City Manager, with advice and consent of council, on the basis of education, ability, training and experience. The City Manager shall supervise these department chiefs and have authority of dismissal.

Unanimous voice vote approval with Kowalski absent.

Motion Thom Phillips; support James Smith to approve the first reading of Section 3.11 – City Planning Commission; Zoning and Zoning Board of Appeals

(a) The council shall maintain a city planning commission in accordance with and having all the powers and duties granted by the provisions of law relating to such commissions, and this charter including but not limited to the Michigan Planning and Enabling Act, and all other intergovernmental planning and zoning statutes which it deems beneficial to the health, safety and general welfare of the city.

(b) The council shall maintain a zoning ordinance in accordance with the provisions of the Michigan Zoning Enabling Act relating to such ordinances and this charter. The ordinance shall provide that zoning be coordinated with the work of the city planning commission.

(c) The members of the Planning Commission and Zoning Board of Appeals shall be appointed by the Mayor subject to confirmation by the council and shall be residents of the city. Their appointment, functions and duties shall be in accordance with statute and city ordinance.

Unanimous voice vote approval.

Motion James Smith; support Jack Donaldson to approve the first reading of Section 3.12 – Planning and Zoning Administrator

The Planning and Zoning Administrator shall enforce the city zoning ordinances and will receive functional and administrative supervision from the City Manager. The Planning and Zoning Administrator shall be appointed by the City Manager, with advice and consent of the city council, on the basis of education, ability, training and experience. The City Manager shall supervise and have the authority of dismissal.

The Administrator or his or her designee shall:

(a) Issue all notices and orders to insure compliance with zoning ordinances and recommend prosecution if necessary;

(b) Process all applications related to zoning compliance, site plans, special land use permits, and zoning variances;

(c) Prepare documents, agenda, and supporting information for the planning commission and zoning board of appeals meetings;

(d) Assess all fees authorized by state statute, city ordinance or city resolution;

(e) Prepare and/or assist in developing a master plan; and

(f) Perform all other duties as may be prescribed by state law, the ordinance and resolutions of the city council or as directed by the City Manager.

Unanimous voice vote approval with Mekas absent.

Motion Jack Donaldson; support Phil Arbour to approve the first reading of Section 3.13 – Other Public Authorities, Board or Commissions

(a) The council may create such entities as may be needed for the public health, safety and well-being of the city.

(b) The council may enter into contracts and agreements to establish those public authorities, joint boards and commissions, cooperative agreements, and other similar entities and arrangements as may be permitted that they determine to be in the interests of the city.

Unanimous voice vote approval with Mekas absent.

#### **I. OTHER ITEMS AS REQUESTED BY COMMISSIONERS**

Discussion held on the proposed future meetings. A change was suggested for the January 29 meeting to meet with Village Treasurer/Finance Director Marie Sherry and move the second reading on Article III to February 5.

#### **J. AGENDA PREPARATION FOR THE NEXT MEETING**

Charter Commission Attorney Tom Ryan will be attending on January 29.

#### **K. NON-ARRANGED PARTICIPATION**

None

#### **L. ADJOURNMENT**

Motion Jack Donaldson; support James Smith to adjourn at 8:28 PM.  
Unanimous voice vote approval with Mekas absent.

Respectfully submitted,

Carol J. Jones  
Clerk, Village of Dexter

Approved for Filing: \_\_\_\_\_

- land use control ordinances must be consistent with the plan;
- (3) Determine to what extent the comprehensive plan and zoning and other land Use ordinances must be consistent with regional plan(s); and
  - (4) Adopt development regulations, to be specified by ordinance, to implement the plan.

The designated agency, the city manager, and the mayor and council shall seek to act in cooperation with other jurisdictions and organizations in their region to promote integrated approaches to regional issues.

#### **Commentary.**

Regulation of land use and development is a council function and an important aspect of home rule, allowing local governments to manage growth and enhance quality of life in the community. However, federal and state laws on land use, development, and environmental protection impose not only regulation but in some cases specific procedures on local governments. The Model provision provides the needed flexibility for the city to establish workable structures and procedures for exercising the planning function within the context of constraints imposed by higher levels of government.

Most cities are integral parts of metropolitan and other regions. The planning and development policies of a city have implications beyond its boundaries. The overall health of a metropolitan region is dependent on some integration of local and regional planning. In addition to establishing appropriate processes and relevant agencies, a city should seek consistency with regional plans in its planning endeavors.

### **Article V FINANCIAL MANAGEMENT**

#### **Introduction.**

This article provides for the development of a comprehensive financial program, allowing maximum flexibility within the boundaries of sound fiscal practices. The budget and the budget approval process constitute the most visible and important activity undertaken by the government. The annual operating budget and multi-year capital plan are the products of the translation of disparate and often conflicting community goals and objectives into comprehensive financial documents. The financial planning process establishes a set of short- and long-term goals for the community and aids in resolving disagreements that arise in the execution of the operations of the government.

The complete financial plan involves two major elements: 1) the current annual budget, and 2) the multi-year capital program which is coordinated with the annual budget.

#### **Section 5.01. Fiscal Year.**

The fiscal year of the city shall begin on the first day of \_\_\_\_\_ and end on the last day of \_\_\_\_\_.

### **Commentary.**

It is strongly recommended that the fiscal year be set so that fiscally sound municipalities will not have to borrow for short terms in anticipation of taxes except in emergency situations. It is recognized, however, that before changes in the fiscal year can be made consideration must be given to the fiscal patterns of the other taxing jurisdictions affecting the city. The dates when the state usually pays significant amounts of grants in aid to the municipality should also be considered in developing an advantageous fiscal calendar.

### **Section 5.02. Submission of Budget and Budget Message.**

On or before the \_\_\_\_\_ day of \_\_\_\_\_ of each year, the city manager shall submit to the city council a budget for the ensuing fiscal year and an accompanying message.

### **Commentary.**

The specific submission date will depend upon the fiscal year but in any case it is suggested that it be at least 45 days prior to the beginning of the fiscal year to allow time for public input and council deliberation.

### **Section 5.03. Budget Message.**

The city manager's message shall explain the budget both in fiscal terms and in terms of the work programs, linking those programs to organizational goals and community priorities. It shall outline the proposed financial policies of the city for the ensuing fiscal year and the impact of those policies on future years. It shall describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the city's debt position, including factors affecting the ability to raise resources through debt issues, and include such other material as the city manager deems desirable.

### **Commentary.**

The budget message should clearly present the manager's program for accomplishing the council's goals and priorities for the community for the coming year as translated into financial terms. Programs of the various city departments should be explained and the city's debt position summarized. From a careful reading of the budget message, members of the council and citizens should be able to obtain a clear and concise picture of what the manager expects to accomplish in the coming year, the estimated cost, sources of revenue and changes in the city debt.

### **Section 5.04. Budget.**

The budget shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year and, except as required by law or this charter, shall be in such form as the city manager deems desirable or the city council may require for effective management and an understanding of the relationship between the budget and the city's strategic goals. The budget shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the

current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

- (1) The proposed goals and expenditures for current operations during the ensuing fiscal year, detailed for each fund by department or by other organization unit, and program, purpose or activity, method of financing such expenditures, and methods to measure outcomes and performance related to the goals;
- (2) Proposed longer-term goals and capital expenditures during the ensuing fiscal year, detailed for each fund by department or by other organization unit when practical, the proposed method of financing each such capital expenditure, and methods to measure outcomes and performance related to the goals; and
- (3) The proposed goals, anticipated income and expense, profit and loss for the ensuing year for each utility or other enterprise fund or internal service fund operated by the city, and methods to measure outcomes and performance related to the goals. For any fund, the total of proposed expenditures shall not exceed the total of estimated income plus carried forward fund balance exclusive of reserves.

#### **Commentary.**

The budget is the translation of disparate and often conflicting community aspirations into a comprehensive financial document that reflects the governing body's goals. It is a complete financial plan for all funds and activities that includes both revenues and expenditures. Expenditures for current operations and capital outlays should be shown separately with the source of financing indicated.

The *Model* does not provide a detailed classification of revenues, expenditures, and specific funds because classifications will be developed by ordinance or administrative order, if they are not established by state agencies concerned with local finance as part of a uniform accounting system. Proposed current expenditures are to be presented in terms of the work programs of the respective offices, departments and agencies; this approach is the fundamental feature of program or performance budgeting.

Performance measures used in the budget may include input, output, efficiency, and outcome measures with comparisons over time so as to encourage the government to benchmark its performance for continuous improvement. A city should strive toward development of outcome measures which reflect actual impact of a program, service, or project on its citizens. Citizens, council, and city staff should work together to undertake performance measurement subject to the year-to-year needs and demands of the community.

#### **Section 5.05. City Council Action on Budget.**

**(a) Notice and Hearing.** The city council shall publish the general summary of the budget and a notice stating:

- (1) The times and places where copies of the message and budget are available for inspection by the public, and
- (2) The time and place, not less than two weeks after such publication, for a public hearing(s) on the budget.

**(b) Amendment Before Adoption.** After the public hearing, the city council may adopt the

budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for an estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than total estimated income.

**(c) Adoption.** The city council shall adopt the budget on or before the \_\_\_\_\_ day of the \_\_\_\_\_ month of the fiscal year currently ending. If it fails to adopt the budget by this date, the budget proposed by the city manager shall go into effect.

**(d) "Publish" defined.** As used in this article, the term "publish" means to print in the contemporary means of information sharing, which includes but is not limited to, one or more newspapers of general circulation in the city, and, if available, in a web site.

#### **Commentary.**

The only restrictions placed on the council with respect to action on the budget are those governing the adoption procedure, the requirement that certain mandatory expenditures may not be decreased or deleted, and the requirement that total authorized expenditures may not exceed the total of estimated income.

No specific date as the deadline for adoption of the budget has been included. Setting a deadline for adoption does not preclude the earlier completion of action on the budget with ample time for public hearings and council consideration of the budget, if the manager submits it early enough.

When amendments are made following public hearing but before adoption that result in significant changes in the budget which the public would not have anticipated, the council should consider holding an additional public hearing to consider the amendments.

The *Model* promotes a favored course of action for dealing with the failure of the council to adopt the budget by the prescribed deadline. It recommends that the budget as submitted by the manager be deemed adopted. Among other possibilities in such a situation are (1) for the amounts appropriated for operations in the current fiscal year to be deemed adopted; (2) for the manager's budget to be deemed adopted but with amendments by the council being permitted during the first month of the new fiscal year; (3) to authorize the council to make temporary appropriations for a period not to exceed one month, during which time it would presumably complete adoption of the budget for the remainder of the fiscal year; and (4) to provide that the budget of the preceding fiscal year should be applicable automatically for the first month of the ensuing year, with the presumption that action will be completed during that time.

The city is required to publish and make the budget publicly available. In doing this, as with any publishing, the city should also consider translating the budget into other languages to communicate better with residents if necessary.

#### **Section 5.06. Appropriation and Revenue Ordinances.**

To implement the adopted budget, the city council shall adopt, prior to the beginning of the fiscal year:

- (a) an appropriation ordinance making appropriations by department, fund,

service, strategy or other organizational unit and authorizing an allocation for each program or activity;

- (b) a tax levy ordinance authorizing the property tax levy or levies and setting the tax rate or rates; and
- (c) any other ordinances required to authorize new revenues or to amend the rates or other features of existing taxes or other revenue sources.

#### **Commentary.**

The previous edition of the *Model* in the adoption subsection provided: "Adoption of the budget shall constitute appropriations of amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed." It took note that some states required that appropriations and the tax levy be by ordinance. Alternative language to cover that requirement was included. This edition specifically calls for appropriation ordinances and revenue ordinances and that appropriations be by department, fund, service, strategy or major organizational unit within each fund. The appropriations for each department or unit would not be broken down in the same detail as the budget. There would be a property tax levy ordinance and other revenue ordinances authorizing revenues from non-property taxes.

#### **Section 5.07. Amendments after Adoption.**

**(a) Supplemental Appropriations.** If during or before the fiscal year the city manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the city council by ordinance may make supplemental appropriations for the year up to the amount of such excess.

**(b) Emergency Appropriations.** To address a public emergency affecting life, health, property or the public peace, the city council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with the provisions of § 2.14. To the extent that there are no available unappropriated revenues or a sufficient fund balance to meet such appropriations, the council may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid or refinanced as long-term debt not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

**(c) Reduction of Appropriations.** If at any time during the fiscal year it appears probable to the city manager that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the manager shall report to the city council without delay, indicating the estimated amount of the deficit, any remedial action taken by the manager and recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent or reduce any deficit and for that purpose it may by ordinance reduce or eliminate one or more appropriations.

**(d) Transfer of Appropriations.** At any time during or before the fiscal year, the city council may by resolution transfer part or all of the unencumbered appropriation balance from one department, fund, service, strategy or organizational unit to the appropriation for other departments or organizational units or a new appropriation. The manager may

transfer funds among programs within a department, fund, service, strategy or organizational unit and shall report such transfers to the council in writing in a timely manner.

**(e) Limitation; Effective Date.** No appropriation for debt service may be reduced or transferred, except to the extent that the debt is refinanced and less debt service is required, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

**Commentary.**

Supplemental appropriations, which can be the bane of any good budget procedure, are restricted to situations in which the manager certifies to council the availability of money in excess of the total revenues estimated in the budget. Another possibility for use of such "windfall" sums is to require their use in the succeeding year's budget as revenue, which would have the effect of reducing the tax levy. Supplemental appropriations may be made only by ordinance and all the provisions regarding publication, notice of hearing, etc., applicable to other ordinances must be followed. Emergency appropriations may be budgeted in accordance with the procedure for emergency ordinances.

Provision is made for reduction of appropriations when the manager believes available revenues will not cover appropriations and a deficit is likely. The primary responsibility is clearly the manager's but it is his or her duty to inform the council and then implement any ordinances or resolutions the council may enact.

With appropriations being made by departments, funds, services, strategies and major organizational units and not by objects, the manager has the freedom to make transfers from unencumbered balances within departments or units but must notify the council of transfers. When an unencumbered balance exists in one department or unit, all or part of it may be transferred to the appropriation of another department or unit by council resolution.

**Section 5.08. Administration and Fiduciary Oversight of the Budget.**

The city council shall provide by ordinance the procedures for administration and fiduciary oversight of the budget.

**Commentary.**

The council will by ordinance establish the procedures and controls for implementation of the budget. The council is entrusted with the fiduciary responsibility for the city and as such must provide review and oversight of the budget. The city manager administers the budget and manages the work programs and spending by departments within the policy goals and appropriations set by the council.

Proposed work programs and requested allotments should be submitted to the manager by department heads following adoption of the budget. The manager should review the programs and allot portions of the total appropriation based upon the work expected to be performed during a particular period of time, usually three months. As chief administrator, the manager must have the authority to revise the allotments at any time during the year and for any reason.

## **Section 5.09. Capital Program.**

**(a) Submission to City Council.** The city manager shall prepare and submit to the city council a multi-year capital program no later than three months before the final date for submission of the budget.

**(b) Contents.** The capital program shall include:

- (1) A clear general summary of its contents;
- (2) Identification of the long-term goals of the community;
- (3) A list of all capital improvements and other capital expenditures which are proposed to be undertaken during the fiscal years next ensuing, with appropriate supporting information as to the necessity for each;
- (4) Cost estimates and recommended time schedules for each improvement or other capital expenditure;
- (5) Method of financing upon which each capital expenditure is to be reliant;
- (6) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired;
- (7) A commentary on how the plan addresses the sustainability of the community and the region of which it is a part; and
- (8) Methods to measure outcomes and performance of the capital plan related to the long-term goals of the community.

The above shall be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

### **Commentary.**

The *Model's* multi-year capital program provisions should compel long-range, goal-oriented, regionally sensitive planning of capital improvements. They should also help develop a meaningful relationship between capital and current operating expenditures. Finally, they should provide adequate time for systematic consideration of capital projects by the council.

The *Model* requires that the manager submit the capital program three months prior to the final date for submission of the budget. This gives the council an opportunity to review the proposed projects and their cost and the methods of finance before the manager submits the annual budget. Actual capital expenditures are carried each year as the capital outlay section of the current budget. These expenditures may be in the form of direct capital outlays from current revenues or debt service payments.

A sixth edition innovation, continued in the seventh and eighth editions, requires that the capital program include estimated operating and maintenance costs of proposed capital facilities. This forces more realistic projections of expenditures, because sometimes the operating cost of a facility will exceed the amortized annual capital charge. It also discourages neglect of maintenance.

## **Section 5.10. City Council Action on Capital Program.**

**(a) Notice and Hearing.** The city council shall publish the general summary of the capital

program and a notice stating:

- (1) The times and places where copies of the capital program are available for inspection by the public, and
- (2) The time and place, not less than two weeks after such publication, for a public hearing(s) on the capital program.

**(b) Adoption.** The city council by resolution shall adopt the capital program with or without amendment after the public hearing and on or before the \_\_\_\_\_ day of the \_\_\_\_ month of the current fiscal year.

#### **Commentary.**

The capital program's adoption, which must be preceded by required publication, notice and hearing, means a positive commitment by the council to undertake a scheduled multi-year capital improvement program. The methods of financing the improvements will be detailed. Bond issues authorized by either a bond ordinance or by a popular referendum will finance major improvements. Most projects requiring bond issues will extend over a period of more than one year.

Other projects, to be financed from current income, also may extend over more than one year and will normally involve construction contracts with adequate safeguards for both parties. Still other capital projects may be completed within a single fiscal period as part of the work program of various city departments. In all cases, actual disbursements for capital items during a single fiscal year, whether in the form of debt service or direct outlays, are carried as the capital outlay section of the budget for that year.

The requirement that the capital program each year be submitted well in advance of the budget enables the council to consider the proposed improvements, the methods for financing them, and the recommended priorities in sufficient time to make decisions on capital items which will be subsequently reflected in the budget. The fact that most capital improvement decisions must be made well in advance of actual disbursements means that the bulk of the capital items in a particular budget will be the result of decisions made several year earlier. Changes, often of a relatively minor nature, may be made each year.

Because all states regulate borrowing for capital improvements by general legislation, no article on this subject is included.

#### **Section 5.11 Independent Audit.**

The city council shall provide for an independent annual audit of all city accounts and may provide for more frequent audits as it deems necessary. An independent certified public accountant or firm of such accountants shall make such audits. Such audits should be performed in accordance with Generally Accepted Auditing Standards (GAAS) and Generally Accepted Governmental Auditing Standards (GAGAS).

The Council shall designate no fewer than three of its members to serve as an Audit Committee. This Committee shall:

- (1) Lead the process of selecting an independent auditor;
- (2) Direct the work of the independent auditor as to the scope of the

- annual audit and any matters of concern with respect to internal controls; and
- (3) Receive the report of the internal auditor and present that report to the council with any recommendations from the Committee.

The council shall, using competitive bidding, designate such accountant or firm annually, or for a period not exceeding five years, but the designation for any particular fiscal year shall be made no later than 30 days after the beginning of such fiscal year. The standard for independence is that the auditor must be capable of exercising objective and impartial judgment on all issues encompassed within the audit engagement. No accountant or firm may provide any other services to the city during the time it is retained to provide independent audits to the city. The city council may waive this requirement by a majority vote at a public hearing. If the state makes such an audit, the council may accept it as satisfying the requirements of this section.

#### **Commentary.**

Since the value of independent audits is directly related to the caliber of those who conduct them, it is provided that certified public accountants be retained, except when a state audit is required. Selection of a professional accountant or firm does not lend itself to the usual requirement, however, of choosing the "lowest responsible bidder." While the council should not disregard cost, this is a case where the factors of competence, reliability and reputation are more significant. For an audit to be most beneficial, some of it must extend over the entire year, which necessitates designation of the auditor during the first month. If the state conducts periodic audits of the city's finances that meet council-established requirements, the state audit may be an acceptable and money-saving substitute for an audit by a private firm.

While the *Model* emphasizes financial audits, the council also has a responsibility to institute performance and management audits to evaluate the operations of departments, services, and programs.

#### **Section 5.12. Public Records.**

Copies of the budget, capital program, independent audits, and appropriation and revenue ordinances shall be public records.

#### **Commentary.**

In addition to compliance with the formal legal requirement that copies of the budget document and capital program be made available, many cities prepare and widely distribute popular summaries, which provide citizens with essential general information.

### **Article VI ELECTIONS**

#### **Introduction.**

Previous editions of the *Model* contained detailed provisions on the nomination and election process. Since the election laws of each state apply to municipalities whether or not they operate with a local charter, these provisions from earlier editions have been removed. The text